

AFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MAC No. 285 of 2018**

1. Sher Singh S/o Mangal Singh Aged About 44 Years
2. Koushilya Bai W/o Sher Singh Aged About 40 Years

Both are R/o Village Nirtu Thana Koni District Bilaspur, Chhattisgarh

----Appellants/Claimants**Versus**

1. Farid @ Fariuddin Annshari S/o Late Kamruddin Khan Aged About 27 Years R/o New Bus Stand Ward No.6 Katghora District Korba, Chhattisgarh, Hall Mukam New Bus Stand Ward No.2 House No.6/47 Belbhatha Ambikapur Road Katghora District Korba, Chhattisgarh (Registered Owner Of The Offending Vehicle Trailer No. C.G.12/ S/6011)
2. Branch Manager The New India Insurance Company Limited, Branch Office Rama Tred Center In Front Of Rajeev Plaza Old Bus Stand Road Bilaspur, Tahsil And District Bilaspur, Chhattisgarh (Insurer Of The Offending Vehicle Trailer No. C.G.12/ S/6011)

---- Respondents

For Appellants	:	Shri A.L. Singroul, Advocate.
For Respondent no.2	:	Shri Shivendu Pandya, Advocate.

Hon'ble Shri Gautam Chourdiya, J**Judgment On Board****13.02.2019**

1. This appeal is by the claimants against the award dated 21.11.2017 passed by the Motor Accident Claims Tribunal, Bilaspur, C.G. in Claim Case No.149/2017 awarding total compensation of Rs.7,10,400/- with interest @ 6% per annum from the date of application till realization, fastening liability on the non-applicants jointly and severely.

2. As per claim petition, on 06.02.2017 deceased Uttam Singh, aged about 22 years, earning Rs.12,000/- per month working as Helper in the Trailer, died in the motor vehicular accident caused due to rash and negligent driving of Trailer bearing registration no. CG12/S/6011 by Driver Aanand Singh. At the time of accident, vehicle was owned by respondent no.1 and insured with respondent no.2. Hence, the claimants by filing claim application sought compensation of Rs.35,78,000/- with interest from the respondents under various heads.
3. On claim petition being filed by the claimants under Section 166 of the Motor Vehicles Act, the Tribunal considering the evidence led by both the parties passed an award as mentioned above.
4. Learned counsel for the appellants/claimants submits as under:
 - (i) that income of the deceased has wrongly been considered by the Tribunal as Rs.4,500/-.
 - (ii) that meager amount towards future prospect has been granted to the claimants.
 - (iii) that the amount awarded under the conventional heads also being on the lower side deserves to be enhanced suitably. No amount towards loss of filial and other consortium has been granted.

In support of above contention, reliance has been placed on the decisions of the Hon'ble Supreme Court in the matters of ***Smt. Sarla Verma and others VS. Delhi Transport Corporation and another, (2009) 6 SCC 121, National Insurance Co. Ltd. Vs. Pranay Sethi, (2017) 16 SCC 680 &***

***Magma General Insurance Co. Ltd. Vs. Nanuram
@ Chuhru Ram and others in Civil Appeal
No.9581/2018 arising out of SLP (Civil)
No.3192/2018.***

05. On the other hand, learned counsel for the respondent/insurance company supports the impugned award and submits that the Tribunal considering all the relevant aspects of the matters has rightly awarded compensation which needs no interference by this Court.

06. Heard learned counsel for the parties and perused the material available on record.

07. As regards income of the deceased, though the claimants have pleaded that the deceased was earning Rs.12,000/- per month as Helper in the Trailer but no documentary evidence in support thereof has been adduced. Therefore, in these circumstances, in absence of any proof regarding income, the income of the deceased is considered as Rs.6,000/- per month as per minimum wages at the relevant time. Further, considering the age of the deceased i.e. 20-25 years, the dependency i.e. 2, the nature of his job and the decisions of the Hon'ble Supreme Court in *Sarla Verma, Pranay Sethi & Magma General Insurance Co. Ltd.* (supra), the claimants are held entitled for compensation in the following manner:

Sl. No.	Heads	Calculation (in rupees)
01.	Income of the deceased @ Rs.6,000/- per month.	Rs.72,000/- per annum
02.	40% of (i) above to be added towards future prospects.	Rs.28,800/-

		Rs.72,000 + Rs.28,800 = Rs.1,00,800/-
03.	1/2 deduction towards personal and living expenses of the deceased	Rs.50,400/-
04.	Multiplier of 18 to be applied	Rs.9,07,200/-
05.	Towards loss of estate and funeral expenses	Rs.30,000/- (as awarded by the Tribunal)
06	Towards loss of filial consortium @ Rs.10,000/- each.	Rs.20,000/-
	Total Compensation	Rs.9,57,200/-

Since the Tribunal has already awarded Rs.7,10,400/-, after deducting the same from the above amount, the claimants are held entitled for additional compensation of Rs.2,46,800/- with interest @ 6% per annum from the date of application till realization. However, rest of the conditions of the impugned award shall remain intact.

08. In the result, the appeal is allowed in part with modification in the impugned award to the above extent.

Sd/-
(Gautam Chourdiya)
Judge

Akhilesh